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PATENT
Attorney Docket No.: 040048-000110US

TOWNSEND and TOWNSEND and CREW LLP

By: /Nina L. McNeill/
Nina L. McNeill

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

Paul Turgeon

Application No.: 10/086,793

Filed: March 1, 2002

For: SYSTEM AND METHOD FOR
PERFORMING SECURE REMOTE
REAL-TIME FINANCIAL
TRANSACTIONS OVER A PUBLIC
COMMUNICATIONS
INFRASTRUCTURE WITH STRONG
AUTHENTICATION

Confirmation No. 1539

Examiner: Badii, Behrang

Art Unit: 3621

APPELLANT REPLY BRIEF UNDER 37
CFR §41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant offers this Reply Brief in response to the Examiner's Answer mailed on July 13, 2006. The following remarks are intended to further focus the issues in this appeal.

The section of the Examiner's Answer captioned "Grounds of Rejection" is a verbatim reproduction of portions of the Final Office Action. This is supplemented by a separate section captioned "Response to Argument" in which the detailed arguments of the Appeal Brief are addressed.

That response does not dispute the basic characterization of the cited art presented in the Appeal Brief, but instead takes the position that Appellant is presenting arguments directed

to features that are not recited in the claims (Examiner's Answer, p. 10, ll. 9 and p. 11, l. 8). Such a position is untenable.

In discussing independent Claims 1, 40, and 77, the Examiner's Answer asserts that "[t]he 'simultaneous inclusion of both these PINs as part of a payment service request' is not included in [those] claim[s]" (*id.*, p. 10, ll. 9 – 11). But each of those claims unambiguously recites a step involving a "payment service request having ... a pair of ATM network compatible PINs." This is included in Claim 1 as part of a step requiring processing of such a payment service request, is included in Claim 40 as part of structure for processing such a payment service request, and is included in Claim 77 as part of a means for generating such a payment service request.

The arguments presented in the Appeal Brief are thus fully commensurate with the scope of those claims. The fact that the cited art in no way teaches or suggests a "payment service request ... having a pair of ATM network compatible PINs" — a fact never clearly refuted by the Examiner's Answer — means that no *prima facie* case under §103(a) has been established.

While the "Response to Argument" section in the Examiner's Answer does also include some commentary on the argument directed to independent Claim 61, that commentary never directly addresses the substance of the argument. As the Appeal Brief asserts, "[i]ndependent Claim 61 is patentable over the cited art because [the prior] art fails to disclose 'providing an encoded data storage device to a user' that includes 'data representing a first ATM network compatible PIN [that is] a valid ATM PIN associated with said user's account at a financial institution' and 'data representing a second ATM network compatible PIN [that is] an invalid ATM PIN not associated with said user's account at said financial institution' " (Appeal Brief, p. 10, ll. 18 – 23). The Examiner's Answer lacks any meaningful discussion of the specific limitations of that claim. For example, it conspicuously omits addressing the claim

requirement that there be data representing an invalid PIN included on the encoded data storage device, a feature that is plainly not disclosed in the cited art. It is accordingly still the case that no *prima facie* case has been established to support the rejection of this independent claim.

Respectfully submitted,

/Patrick M. Boucher/

Patrick M. Boucher
Reg. No. 44,037

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
PMB:pmb
60851146 v1